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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 CHRISTOPHER LEE JENKINS,
12 CDCR #P-73828,

13 Plaintiff,

14 vs.

15 R.J. DONOVAN, Appeals Coordinator,
16 et al.

17 Defendants.

Civil No. 09-0116 L (BLM)

**ORDER GRANTING PLAINTIFF'S
MOTION FOR EXTENSION
OF TIME TO FILE SECOND
AMENDED COMPLAINT**

[Doc. No. 33]

18 **I. PROCEDURAL HISTORY**

19 Christopher Lee Jenkins ("Plaintiff"), a prisoner currently incarcerated at R.J. Donovan
20 Correctional Facility ("RJD") in San Diego, California, and proceeding pro se, initiated this civil
21 action pursuant to 42 U.S.C. § 1983 on January 12, 2009 in the Eastern District of California.

22 On January 15, 2009, United States Magistrate Judge Edmund F. Brennan found the case
23 lacked proper venue and transferred the matter to the Southern District of California pursuant
24 to 28 U.S.C. § 1406(a) [Doc. No. 5].

25 On January 27, 2009, this Court denied Plaintiff's Motion for leave to proceed *in forma*
26 *pauperis* ("IFP") as insufficient, but granted him time to provide a properly supported IFP
27 application [Doc. No. 8]. Plaintiff then requested, and was granted, an extension of time in
28 which to do so [Doc. Nos. 9, 10].

1 On May 28, 2009, the Court granted Plaintiff's IFP Motion, but dismissed his Complaint
 2 sua sponte for failing to state a claim pursuant to 28 U.S.C. §§ 1915(e)(2) and 1915A. *See* May
 3 28, 2009 Order [Doc. No. 13]. In its Order, the Court identified Plaintiff's pleading deficiencies
 4 and provided him leave to amend. *Id.* at 4-7.

5 Plaintiff thereafter requested, and was granted, four separate extensions of time in which
 6 to file a First Amended Complaint [Doc. Nos. 14-19, 23-24.] On November 25, 2009, Plaintiff
 7 filed his First Amended Complaint, adding new claims and 37 additional Defendants [Doc. No.
 8 26]. However, on December 14, 2009, the Court again found Plaintiff failed to state a claim and
 9 dismissed his First Amended Complaint pursuant to 28 U.S.C. §§ 1915(e)(2) and § 1915A(b)(1)
 10 [Doc. No. 27]. While Plaintiff was once again granted leave to amend, he was cautioned any
 11 additional requests for extensions of time would "only be granted for good cause shown." *See*
 12 Dec. 14, 2009 Order at 8.

13 Plaintiff thereafter filed, and was granted, two additional requests for extension of time
 14 in which to file a Second Amended Complaint [Doc. Nos. 28-29, 31-32]. And, on May 7, 2010,
 15 Plaintiff filed what is now his seventh request for an extension of time in which to amend [Doc.
 16 No. 33]. Plaintiff claims he requires additional time because in April 2010, he was transferred
 17 to two separate hospitals outside RJD for treatment of an infection which he claims requires a
 18 6-8 week course of treatment. *See* Pl.'s Mot. at 2. Plaintiff specifically requests "an
 19 enlargement of time [up] to and including" July 31, 2010, in which to file his Second Amended
 20 Complaint. *Id.* at 1.

21 **II. STANDARD OF REVIEW**

22 As noted above, this is Plaintiff's *seventh* request for an extension of time. However, he
 23 is proceeding without counsel and currently alleges facts which demonstrate good cause for
 24 granting him at least *one final* extension of time. *See Balistreri v. Pacifica Police Dep't*, 901
 25 F.2d 696, 699 (9th Cir. 1990) (court has a "duty to ensure that pro se litigants do not lose their
 26 right to a hearing on the merits of their claim due to ... technical procedural requirements.")).
 27 "'Strict time limits ... ought not to be insisted upon' where restraints resulting from a pro se ...
 28 plaintiff's incarceration prevent timely compliance with court deadlines." *Eldridge v. Block*, 832

1 F.2d 1132, 1136 (9th Cir. 1987) (citing *Tarantino v. Eggers*, 380 F.2d 465, 468 (9th Cir. 1967);
 2 *see also Bennett v. King*, 205 F.3d 1188, 1189 (9th Cir. 2000) (reversing district court's
 3 dismissal of prisoner's amended pro se complaint as untimely where mere 30-day delay was
 4 result of prison-wide lockdown).

5 Nevertheless, the Court finds it appropriate to caution Plaintiff that absent a showing of
 6 *extraordinary* circumstances, it will not grant any further extensions of time to amend in this
 7 case. *Cf. Efau v. Williams*, 473 F.3d 1038, 1041 (9th Cir. 2007) (noting that while a court's
 8 discretion in extending time [under FED.R.CIV.P. 4(m)] is broad, a plaintiff's protracted and
 9 repeated requests for extension of time must end somewhere, for "not court has ruled that the
 10 discretion is limitless.").

11 **III. CONCLUSION AND ORDER**


12 Accordingly, the Court hereby **GRANTS** Plaintiff's Motion for Extension of Time to file
 13 his Second Amended Complaint [Doc. No. 33].

14 **IT IS FURTHER ORDERED** that Plaintiff's Second Amended Complaint must be
 15 received by the Court no later than **Monday, August 2, 2010**. Moreover, Plaintiff is cautioned
 16 that his Second Amended Complaint must address the deficiencies of pleading identified in the
 17 Court's May 28, 2009 and December 14, 2009 Orders, and must be complete in itself without
 18 reference to either of his previous pleadings. *See* S.D. CAL. CIVLR 15.1; *Hal Roach Studios, Inc.*
 19 *v. Richard Feiner & Co., Inc.*, 896 F.2d 1542, 1546 (9th Cir. 1989). **ABSENT**
 20 **EXTRAORDINARY CIRCUMSTANCES, NO FURTHER EXTENSIONS OF TIME TO**
 21 **AMEND SHALL BE GRANTED IN THIS CASE.**

22 If Plaintiff does *not* to file a Second Amended Complaint by August 2, 2010, the Court
 23 shall enter a final Order of Dismissal without prejudice for failing to state a claim pursuant to
 24 28 U.S.C. § 1915(e)(2) and § 1915A(b).

25 **IT IS SO ORDERED.**

26 DATED: May 19, 2010

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 28 M. James Lorenz
 United States District Court Judge

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